IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 8 OF 2006

MR. JOSE CRUZ F. GOMES AND 5 ORS. ... Petitioners
Versus
THE STATE OF GOA THROUGH ITS CHIEF SECRETARY AND 10 ORS. ... Respondents

Advocate Ms. Norma Alvares, Amicus Curiae.
Mr. S. S. Kantak, Advocate General with Ms. Leena Dharwadkar, Addl. Govt. Advocate for the respondents No. 1 to 7, 9 & 10.
Mr. Chandrashekhar Naik, Advocate for the respondent No.8.

Coram:- D.B. BHOSALE &
N. A. BRITTO, JJ.

Date:- 26th November, 2007

P.C.

By this writ petition under Article 226 of the Constitution of India, the petitioners are seeking direction to the respondents not to fill the land with mud and from doing any development activity of the proposed project in the said property bearing Survey Nos. 666/1, 666/2, 666/7 and 667/7 of Cuncolim Village of Salcete Taluka.

2. It appears that on 13.6.07, this Court had appointed Shri Jose F.F. de Albuquerque, retired Chief Engineer, P.W.D., Goa as an expert to examine whether the project is feasible in the said area vis-a-vis the flow and discharge of water and whether work planned and executed by the Goa State Urban Development Agency is effective in the matter of discharge and flow of water. The expert has, accordingly, after following the due procedure, submitted his detailed report and has recorded the following conclusions:

" In view of the above considerations, and taking an overall view

of all issues involved, the following conclusions are placed before the Hon. Court:

G-1 The PROJECT OF THE CONSTRUCTION OF THE MARKET COMPLEX-CUM-COMMUNITY HALL, at Cuncolim, Salcete, is feasible, vis-a-vis the flow and discharge of water;

and

G-2 The work planned and executed by GSUDA is effective in the matter of discharge and flow of water.

However, it is advisable that the additional improvements as detailed in Para D above, be executed preferably before the onset of the next monsoons.

Cooperation of other Departments/Authorities will be necessary, as these works come under the purview of those Authorities.

These measures would also strengthen the system against any freak floods and protect other areas of Cuncolim from flooding."

3. Respondent No.2 has filed a detailed affidavit and has accepted all the suggestions made in the report and has agreed to implement them without any reservation. The only objection raised by Mrs. Norma Alvares, the learned Amicus Curiae is that the expert did not visit the site on the days on which the petitioners wanted him to visit and that there was no heavy rainfall on the day he visited the site. She further submitted that the expert has not considered if the adjoining area is developed, what will be the effect on the flow and discharge of water.

4. We have perused the report, in detail. It is clear from the report that the expert visited the site immediately after a week of heavy rainfall, which according to the expert was, in fact, highest during last 20 years. Thereafter, he visited the site on two occasions, out of which on one occasion, there was heavy downfall of rain which is clearly mentioned in

the report. We have also seen the suggestions made by the expert. If the suggestions are implemented by the respondents, in our opinion, that would take care of all the apprehensions as regards the flooding expressed in the writ petition. We do not see any reason to keep this petition pending anymore. If the petitioners desire to make any further suggestions, they may do so in writing, to the respondents, which the respondents may take into consideration while carrying out development on the said property.

5. With these observations, the writ petition is disposed of. The learned Advocate General for respondent No.2, on instructions, has stated that respondent No.2 will pay Rs.25,000/- to Shri Jose F. F. de Albuquerque, as his fees, within two weeks from today. His statement is accepted.

D.B. BHOSALE, J.

N. A. BRITTO, J.

ssm.